

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

ROBERT J. deVILLERS

v.

CA 13-173 ML

BLUE CROSS & BLUE SHIELD
OF RHODE ISLAND

MEMORANDUM AND ORDER

On March 11, 2014, Magistrate Judge Almond issued a Report and Recommendation wherein he recommended that Defendant's Motion for Summary Judgment be granted in part and denied in part with a remand to the Plan Administrator for further development of the record on the question of whether Plaintiff's son was entitled to coverage for any of the outpatient therapy or counseling services he received while residing at Alternative Youth Care in Kalispell, Montana ("AYC").

This Court adopted the Report and Recommendation by Order dated March 31, 2014 (Docket #34). In that Order, counsel for Defendant was directed to file on or before June 30, 2014 a status report on the progress of the issue remanded. The status report was not filed until July 9, 2014, and there is no explanation for the tardy filing. Defendant reports that after obtaining additional information concerning the individuals who provided outpatient therapy or counseling services to Plaintiff's son, it has determined that coverage for those services was available under the relevant Plans. Defendant has now administered those claims and after applying appropriate claim coding requirements, reimbursement rates, deductibles, co-pays, and co-insurance, it has tendered reimbursement to Plaintiff in the amount of \$6736.67. Defendant further asserts that "Plaintiff has been paid all amounts to which he is entitled under the Plans." Defendant requests that Plaintiff's claims "to the limited extent they remain intact following this

Court's order" be dismissed as moot.

On July 14, 2014, Plaintiff filed an "objection" to the status report. (Docket #36). Plaintiff argues that because Defendant failed to meet the June 30, 2014 deadline, Defendant should now be required to pay Plaintiff's claim in full. Plaintiff also suggests that the Court sanction Defendant "as the Court deems necessary."

This Court is fully aware of the history of this matter and Magistrate Judge Almond's adroit parsing of the record to reveal Plaintiff's viable claims from those that were not viable. Those claims were remanded by order of this Court to Defendant and they have now been paid in full. To the extent Plaintiff now seeks more because of Defendant's tardiness in filing the status report, the Court declines to order what would essentially be a windfall, given the findings of the Magistrate Judge in the Report and Recommendation, all of which were adopted in toto by this Court. With the payment to Plaintiff of the \$6736.67, an amount Plaintiff does not contest, the Court finds that Plaintiff's claims, to the extent they survived the Report and Recommendation, are now moot. Accordingly, the case is hereby DISMISSED.

SO ORDERED:

/s/ Mary M. Lisi
Mary M. Lisi
United States District Judge
July 22, 2014